

AMENDED IN ASSEMBLY APRIL 16, 2015

AMENDED IN ASSEMBLY APRIL 8, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## ASSEMBLY BILL

**No. 775**

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**Introduced by Assembly Members Chiu and Burke**  
**(Coauthors: Assembly Members ~~Rendon~~ Atkins, Rendon, and Wood)**

February 25, 2015

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An act to add Article 2.7 (commencing with Section 123470) to Chapter 2 of Part 2 of Division 106 of the Health and Safety Code, relating to public health.

### LEGISLATIVE COUNSEL'S DIGEST

AB 775, as amended, Chiu. Reproductive FACT Act.

Existing law, the Reproductive Privacy Act, provides that every individual possesses a fundamental right of privacy with respect to reproductive decisions. Existing law provides that the state shall not deny or interfere with a woman's right to choose or obtain an abortion prior to viability of the fetus, as defined, or when necessary to protect her life or health. Existing law specifies the circumstances under which the performance of an abortion is deemed unauthorized.

This bill would enact the Reproductive FACT (Freedom, Accountability, Comprehensive Care, and Transparency) Act, which would require a licensed covered facility, as defined, to disseminate a notice to all clients, as specified, stating, among other things, that California has public programs that provide immediate free or low-cost access to comprehensive family planning services, prenatal care, and abortion, for eligible women. The bill would also require an unlicensed

covered facility, as defined, to disseminate a notice to all clients, as specified, stating, among other things, that the facility is not licensed as a medical facility by the State of California.

The bill would authorize the Attorney General, city attorney, or county counsel to bring an action to impose a specified civil penalty against covered facilities that fail to comply with these requirements. The bill would also require the Attorney General to post on the Department of Justice's Internet Web site a list of the covered facilities upon which a civil penalty has been imposed.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. The Legislature finds and declares that:
- 2     (a) All California women, regardless of income, should have
- 3     access to reproductive health services. The state provides insurance
- 4     coverage of reproductive health care and counseling to eligible,
- 5     low-income women. Some of these programs have been recently
- 6     established or expanded as a result of the federal Patient Protection
- 7     and Affordable Care Act.
- 8     (b) Millions of California women are in need of publicly funded
- 9     family planning services, contraception services and education,
- 10    abortion services, and prenatal care and delivery. In 2012, more
- 11    than 2.6 million California women were in need of publicly funded
- 12    family planning services. More than 700,000 California women
- 13    become pregnant every year and one-half of these pregnancies are
- 14    unintended. In 2010, 64.3 percent of unplanned births in California
- 15    were publicly funded. Yet, at the moment they learn that they are
- 16    pregnant, thousands of women remain unaware of the public
- 17    programs available to provide them with contraception, health
- 18    education and counseling, family planning, prenatal care, abortion,
- 19    or delivery.
- 20    (c) Because pregnancy decisions are time sensitive, and care
- 21    early in pregnancy is important, California must supplement its
- 22    own efforts to advise women of its reproductive health programs.
- 23    In California, low-income women can receive immediate access
- 24    to free or low-cost comprehensive family planning services and
- 25    pregnancy-related care through the Medi-Cal and the Family PACT
- 26    programs. However, only Medi-Cal providers who are enrolled in

1 the Family PACT program are authorized to enroll patients  
2 immediately at their health centers.

3 (d) The most effective way to ensure that women quickly obtain  
4 the information and services they need to make and implement  
5 timely reproductive decisions is to require licensed health care  
6 facilities that are unable to immediately enroll patients into the  
7 Family PACT or Presumptive Eligibility for Pregnant Women  
8 Medi-Cal programs to advise each patient at the time of her visit  
9 of the various publicly funded family planning and  
10 pregnancy-related resources available in California, and the manner  
11 in which to directly and efficiently access those resources.

12 (e) It is also vital that pregnant women in California know when  
13 they are getting medical care from licensed professionals.  
14 Unlicensed facilities that advertise and provide pregnancy testing  
15 and care must advise clients, at the time they are seeking or  
16 obtaining care, that these facilities are not licensed to provide  
17 medical care.

18 SEC. 2. The purpose of this act is to ensure that California  
19 residents make their personal reproductive health care decisions  
20 knowing their rights and the health care services available to them.

21 SEC. 3. Article 2.7 (commencing with Section 123470) is  
22 added to Chapter 2 of Part 2 of Division 106 of the Health and  
23 Safety Code, to read:

24  
25 Article 2.7. Reproductive FACT Act  
26

27 123470. This article shall be known and may be cited as the  
28 Reproductive FACT (Freedom, Accountability, Comprehensive  
29 Care, and Transparency) Act or Reproductive FACT Act.

30 123471. (a) For purposes of this article, and except as provided  
31 in subdivision (c), “licensed covered facility” means a facility  
32 licensed under Section 1204 or an intermittent clinic operating  
33 under a primary care clinic pursuant to subdivision (h) of Section  
34 1206, whose primary purpose is providing family planning or  
35 pregnancy-related services, and that satisfies two or more of the  
36 following:

37 (1) The facility offers obstetric ultrasounds, obstetric sonograms,  
38 or prenatal care to pregnant women.

39 (2) The facility provides, or offers counseling about,  
40 contraception or contraceptive methods.

1 (3) The facility offers pregnancy testing or pregnancy diagnosis.

2 (4) The facility advertises or solicits patrons with offers to  
3 provide prenatal sonography, pregnancy tests, or pregnancy options  
4 counseling.

5 (5) The facility has staff or volunteers who collect health  
6 information from clients.

7 (b) For purposes of this article, subject to subdivision (c),  
8 “unlicensed covered facility” is a facility that is not licensed by  
9 the State of California and does not have a licensed medical  
10 provider on staff or under contract who provides or directly  
11 supervises the provision of all of the services, whose primary  
12 purpose is providing pregnancy-related services, and that satisfies  
13 two or more of the following:

14 (1) The facility offers obstetric ultrasounds, obstetric sonograms,  
15 or prenatal care to pregnant women.

16 (2) The facility offers pregnancy testing or pregnancy diagnosis.

17 (3) The facility advertises or solicits patrons with offers to  
18 provide prenatal sonography, pregnancy tests, or pregnancy options  
19 counseling.

20 (4) The facility has staff or volunteers who collect health  
21 information from clients.

22 (c) This article shall not apply to either of the following:

23 (1) A clinic directly conducted, maintained, or operated by the  
24 United States or any of its departments, officers, or agencies.

25 (2) A licensed primary care clinic that is enrolled as a Medi-Cal  
26 provider and a provider in the Family Planning, Access, Care, and  
27 Treatment Program.

28 123472. (a) A licensed covered facility shall disseminate *to*  
29 *clients on site* the following notice in English and in the ~~language~~  
30 ~~of the applicable minority group as required pursuant to Section~~  
31 ~~203 of the federal Voting Rights Act (52 U.S.C. 10101 et seq.) to~~  
32 ~~clients on site.~~ *primary threshold languages for Medi-Cal*  
33 *beneficiaries as determined by the State Department of Health*  
34 *Care Services for the county in which the facility is located.*

35 (1) The notice shall state:

36  
37 “California has public programs that provide immediate free or  
38 low-cost access to comprehensive family planning services  
39 (including all FDA-approved methods of contraception), prenatal  
40 care, and abortion for eligible women. To determine whether you

1 qualify, contact the county social services office at [insert the  
2 telephone number].”

3  
4 (2) The information shall be disclosed in one of the following  
5 ways:

6 (A) A public notice posted in a conspicuous place where  
7 individuals wait that may be easily read by those seeking services  
8 from the facility. The notice shall be at least 8.5 inches by 11 inches  
9 and written in no less than 22-point type.

10 (B) A printed notice distributed to all clients in no less than  
11 14-point type.

12 (C) A digital notice distributed to all clients that can be read at  
13 the time of check-in or arrival, in the same point type as other  
14 digital disclosures. A printed notice as described in subparagraph  
15 (B) shall be available for all clients who cannot or do not wish to  
16 receive the information in a digital format.

17 (3) The notice may be combined with other mandated  
18 disclosures.

19 (b) An unlicensed covered facility shall disseminate *to clients*  
20 *on site and in any print and digital advertising materials including*  
21 *Internet Web sites*, the following notice in English and in the  
22 ~~language of the applicable minority group as required pursuant to~~  
23 ~~Section 203 of the federal Voting Rights Act (52 U.S.C. 10101 et~~  
24 ~~seq.) to clients on site and in any print and digital advertising~~  
25 ~~materials, including Internet Web sites.~~ *primary threshold*  
26 *languages for Medi-Cal beneficiaries as determined by the State*  
27 *Department of Health Care Services for the county in which the*  
28 *facility is located.*

29 (1) The notice shall state: “This facility is not licensed as a  
30 medical facility by the State of California and has no licensed  
31 medical provider who provides or directly supervises the provision  
32 of services.”

33 (2) The onsite notice shall be a sign at least 8.5 inches by 11  
34 inches and written in no less than 48-point type, and shall be posted  
35 conspicuously in the entrance of the facility and at least one  
36 additional area where clients wait to receive services.

37 (3) The notice in the advertising material shall be the same point  
38 type as other information in the advertisement.

39 123473. (a) Covered facilities that fail to comply with the  
40 requirements of this article are liable for a civil penalty of five

1 hundred dollars (\$500) for a first offense and one thousand dollars  
2 (\$1,000) for each subsequent offense. The Attorney General, city  
3 attorney, or county counsel may bring an action to impose a civil  
4 penalty pursuant to this section after doing both of the following:

5 (1) Providing the covered facility with reasonable notice of  
6 noncompliance, which informs the facility that it is subject to a  
7 civil penalty if it does not correct the violation within 30 days from  
8 the date the notice is sent to the facility.

9 (2) Verifying that the violation was not corrected within the  
10 30-day period described in paragraph (1).

11 (b) The civil penalty shall be deposited into the General Fund  
12 if the action is brought by the Attorney General. If the action is  
13 brought by a city attorney, the civil penalty shall be paid to the  
14 treasurer of the city in which the judgment is entered. If the action  
15 is brought by a county counsel, the civil penalty shall be paid to  
16 the treasurer of the county in which the judgment is entered.

17 123474. The Attorney General shall post and maintain on the  
18 Department of Justice's Internet Web site a list of the covered  
19 facilities upon which a penalty has been imposed for  
20 noncompliance with the requirements of this article.

21 SEC. 4. The provisions of this act are severable. If any  
22 provision of this act or its application is held invalid, that invalidity  
23 shall not affect other provisions or applications that can be given  
24 effect without the invalid provision or application.